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1 P R O C E E D I N G S

2 THE COURT: Good morning.

3 MR. ATKINSON: Good morning, Your Honor, David
4 Atkinson and Charles Gorder on behalf of the United
5 States. We're here in Criminal 05-413, United States
6 versus Mehrdad Yasrebi and Child Foundation.7 Mr. Yasrebi is here, out of custody, with
8 counsel, Dave Angeli.9 This is the date and time set for the filing of
10 an information and the defendant's entry of a plea of
11 guilty to that information.

12 THE COURT: All right. Thank you.

13 Let me ask a question before we turn to
14 Mr. Angeli.15 I have a superseding indictment. Now, was there
16 an arraignment on that indictment?

17 MR. ATKINSON: No.

18 THE COURT: This is the first appearance, then?

19 MR. ATKINSON: Yes, sir.

20 THE COURT: All right. And what you have filed
21 is a superseding information, and that's what we'll
22 proceed on this morning.

23 MR. ATKINSON: That's correct.

24 THE COURT: All right.

25 MR. ATKINSON: Judge King, as the case

1 progresses, we'll explain to you why we're doing it this
2 way, but that's correct.

3 THE COURT: All right.

4 Mr. Angeli.

5 MR. ANGELI: Good morning, Your Honor. On the
6 issue that Your Honor just referred to, I understand that
7 at sentencing in this matter, the Government will be
8 moving to dismiss the previously filed indictment, which
9 is -- or at least we believe it is -- under seal.

10 We would ask -- and I don't believe there is any
11 objection from the Government -- that that indictment
12 remain under seal, at least until that time.

13 THE COURT: Well, I've signed a document sealing
14 this, I believe. There was an order to unseal regarding
15 a search warrant. Is that where we are?

16 MR. ATKINSON: No. We're past that, Judge King.
17 Last year sometime I provided counsel with a search
18 warrant affidavit, pursuant to our negotiations in
19 connection with this case.

20 In attempting to file the information on Friday,
21 Judge King, the clerk's office would not accept it unless
22 we did something to unseal the case. So I filed such a
23 motion on Friday. I don't know where that is.
24 Ms. Austad tells me that you've signed that and it's
25 now --

1 THE CLERK: It's just in the clerk's office. It
2 just hasn't been filed, docketed yet.

3 MR. ATKINSON: I take no position on whether the
4 indictments in this case that we filed essentially to
5 hold statutes of limitations are open or unsealed. If
6 the defendant prefers them to remain sealed, I don't
7 really quarrel with that.

8 THE COURT: Well, the problem is, I don't have
9 that order in front of me that I signed. That's in the
10 clerk's office. What does that order provide?

11 THE CLERK: I don't have a copy of it, but it
12 unseals the case.

13 MR. ATKINSON: It's an unlimited sealing order,
14 Judge.

15 THE COURT: It's an unlimited sealing order; is
16 that correct?

17 THE CLERK: Yes.

18 THE COURT: And that's what you're asking for?

19 MR. ATKINSON: Correct.

20 THE COURT: It's a sealing order or an unsealing
21 order?

22 MR. ATKINSON: Unsealing order.

23 THE COURT: Okay. That's what I need to
24 understand here.

25 And you want the entire case sealed; is that

1 correct?

2 MR. ANGELI: Well, Your Honor, we certainly don't
3 object to the information that is before Your Honor this
4 morning to being unsealed.

5 THE COURT: The Government, though, has filed an
6 order that unseals the entire file. That's in the
7 clerk's office right now, and it's being processed.

8 MR. ANGELI: And I guess our request, Your
9 Honor -- and I don't believe there is opposition to this,
10 and I believe the Child Foundation joins in the
11 request -- is that the existing indictment remain under
12 seal.

13 THE COURT: The existing indictment, the one that
14 was previously filed.

15 MR. ANGELI: Yes, Your Honor.

16 THE COURT: And the information that we're going
17 to proceed on today, will that be under seal?

18 MR. ANGELI: We don't see any reason for it to be
19 under seal.

20 THE COURT: Okay. You're going to have to
21 withdraw your order unsealing the file, then.

22 MR. ATKINSON: Well, can we do this, then?
23 Can -- why doesn't Mr. Angeli file a motion clarifying
24 that the existing indictment remains under seal and the
25 remainder of the file is unsealed, and present it to Your

1 Honor.

2 THE COURT: All right. Be prepared to -- get
3 together, agree on the form of order. Submit it to me.
4 If it's unopposed by the Government, I'll sign it.

5 MR. ANGELI: We'll do that, Your Honor. And in
6 the meantime, just so we don't get a hiccup in the next
7 12-hour period where the existing indictment is unsealed,
8 can you hold the Government's existing motion and order
9 in abeyance?

10 THE COURT: Mary, can you stop the --

11 THE CLERK: I can stop the process of that going
12 through right now. I'll do that.

13 THE COURT: Okay. You submit an order. If it's
14 not contested by the Government, I'll sign that order,
15 and that will be the order that controls either the
16 sealing or unsealing of any part of the file. Is that
17 correct?

18 MR. ANGELI: Yes, Your Honor. We'll file that
19 this afternoon. Thank you.

20 THE COURT: All right.

21 MR. ANGELI: With that said, Your Honor, we
22 acknowledge receipt of the one-count superseding
23 information in this case. We waive the formal reading,
24 and Dr. Yasrebi is prepared to enter a guilty plea today.

25 THE COURT: Well, we need to proceed with certain

1 formalities. Let's swear your client, Mr. Yasrebi.

2 THE DEFENDANT: Yes, Your Honor.

3 THE COURT: Now, is the foundation going to also
4 appear at this time and enter a plea?

5 MR. SACKS: Yes, Your Honor.

6 THE COURT: And who represents the Child
7 Foundation?

8 MR. SACKS: I'm Jeremy Sacks, with my colleague,
9 Ron Sim. And we would ask Your Honor to -- we filed a
10 motion for pro hac vice for Mr. Sim that hasn't been
11 acted upon yet.

12 THE COURT: Right. Well, I'll enter the order
13 for pro hac vice representation.

14 Now, who has authority at this point to enter a
15 plea on behalf of Child Foundation?

16 MR. SIM: I do, Your Honor.

17 THE COURT: All right. Is that through corporate
18 activity?

19 MR. SIM: Yes, it is. And it's been filed with
20 the courts, attached to our petition, Your Honor.

21 THE COURT: All right. Let's go ahead, then.

22 Why don't you swear Mr. Yasrebi and swear Mr. Sim.

23 We'll start with Mr. Yasrebi.

24 THE CLERK: Would you please raise your right
25 hand.

1 (Defendant Mehrdad Yasrebi is then sworn.)

2 THE CLERK: Thank you.

3 Would you please raise your right hand.

4 (Mr. Sim is then sworn.)

5 THE CLERK: Thank you.

6 THE COURT: You may be seated, Mr. Sim.

7 Mr. Yasrebi, I'm going to be asking you some
8 questions. You must give me truthful answers to those
9 questions. Do you understand that?

10 THE DEFENDANT: Yes, Your Honor.

11 THE COURT: All right. Would you state again
12 your full name.

13 THE DEFENDANT: Mehrdad Yasrebi.

14 THE COURT: And your age?

15 THE DEFENDANT: Fifty-three.

16 THE COURT: And what is the extent of your formal
17 schooling and education?

18 THE DEFENDANT: I have a Ph.D. in ceramic
19 engineering.

20 THE COURT: Have you taken any medication
21 recently, anything that would cause you to have any
22 problem understanding what's happening here in court
23 today?

24 THE DEFENDANT: No, Your Honor.

25 THE COURT: Now, we're dealing with a superseding

1 information that's been filed naming you as a defendant
2 in the case. Have you discussed the charges against you
3 with your lawyer?

4 THE DEFENDANT: Yes, Your Honor, I have.

5 THE COURT: And do you feel you understand the
6 nature and the seriousness of those charges?

7 THE DEFENDANT: Yes, Your Honor.

8 THE COURT: And you are appearing with your
9 attorney at this time, Mr. Angeli from the Angeli Law
10 Group; is that correct?

11 THE DEFENDANT: That's correct, Your Honor.

12 THE COURT: All right. Now, I want to advise you
13 that you're not required to make any statement regarding
14 this matter. If you have made a statement, you need not
15 say anything further. If you start to make a statement,
16 you may stop at any time. Any statement made by you may
17 be used against you.

18 Now, have you consulted with your lawyer on those
19 rights?

20 THE DEFENDANT: Yes, Your Honor, I have.

21 THE COURT: All right. And, Counsel, do you
22 waive the reading of the superseding information?

23 MR. ANGELI: We do, Your Honor.

24 THE COURT: Okay. Let me find it here.

25 Now, are you satisfied with the representation

1 and advice that has been given to you by your attorney in
2 this case?

3 THE DEFENDANT: Yes, Your Honor, I am.

4 THE COURT: Now, I have a petition to enter a
5 plea of guilty. It's been handed to me this morning. It
6 appears that you signed that document on December --
7 let's see -- December 15th of last year, 2010. Is that
8 your signature on that?

9 Well, wait, that's the plea petition -- the plea
10 agreement.

11 THE DEFENDANT: Right.

12 THE COURT: The signature on the petition itself
13 is January 10th, 2011. Is that your signature on the
14 petition?

15 THE DEFENDANT: Yes, Your Honor.

16 THE COURT: Now, attached to that is a plea
17 agreement letter, and it appears that you signed that on
18 December 15th of last year. Is that correct?

19 THE DEFENDANT: Yes, Your Honor.

20 THE COURT: All right. Now, at this time I'm
21 going to ask the assistant United States attorney who is
22 handling this matter to summarize the terms of the plea
23 agreement. I want to make sure you understand these
24 terms, so listen carefully to what he has to say. You
25 may be seated while he does that.

1 MR. ATKINSON: Thank you, Your Honor.

2 The terms of the plea agreement that are most
3 important are as follows: The defendant has agreed to
4 waive his Fifth Amendment right to indictment and plead
5 guilty to an information that has been filed or will be
6 filed, charging him with conspiracy to defraud the United
7 States, in violation of Title 18 United States Code
8 Section 371.

9 The maximum penalty is five years' imprisonment,
10 a fine of \$250,000 and three years' supervised release
11 and a \$100 fee assessment.

12 There are currently existing indictments -- there
13 is currently an existing superseding indictment, which
14 the United States will move to dismiss at sentencing in
15 connection with this case, and we've agreed not to bring
16 further charges in this district against this defendant
17 based upon this investigation.

18 Assuming that the defendant accepts
19 responsibility -- and we have every reason to believe he
20 will -- the United States will recommend that he receive
21 credit for that in the guideline analysis.

22 We will be recommending that the Court impose a
23 sentence between 24 and 30 months' imprisonment. We
24 reserve the right to ask for a fine. The defendant may
25 request any sentence that he believes is warranted by the

1 evidence in the case. We expect that there may be some
2 contested issues at sentencing, so we'd ask that
3 sentencing be set out a bit longer than the normal case,
4 so the parties can appropriately frame the issues for the
5 Court.

6 THE COURT: How much additional time?

7 MR. ATKINSON: At least three weeks. We
8 contemplate that we'll file our sentencing memorandum
9 three weeks ahead of sentencing.

10 The defendant has conditionally waived his right
11 to appeal. He's been advised in the plea agreement of
12 potential immigration consequences. I'm advised that
13 Mr. Yasrebi is a lawful permanent resident at this point,
14 not a citizen of the United States.

15 The Court is not bound by this agreement.

16 Those are the salient features.

17 THE COURT: All right. I want to pursue the
18 waiver of indictment, so I'm going to ask him some
19 questions regarding that.

20 Would you stand, please, Mr. Yasrebi.

21 Mr. Yasrebi, I want to inform you that you have a
22 constitutional right to be charged by an indictment by a
23 grand jury, but you can waive that right and consent to
24 be charged by an information of the U.S. attorney.
25 Instead of an indictment, these felony charges against

1 you have been brought by the U.S. attorney by the filing
2 of an information. And unless you waive indictment, you
3 may not charged with a felony unless a grand jury finds
4 by return of an indictment that there is probable cause
5 to believe that a crime has been committed and that you
6 committed it.

7 If you do not waive indictment, the Government
8 may present the case to the grand jury and ask it to
9 indict you. A grand jury is composed of at least 16 and
10 not more than 23 persons. And at least 12 grand jurors
11 must find there is probable cause to believe you
12 committed the crime with which you are charged before you
13 may be indicted. A grand jury might or it might not
14 indict you.

15 Now, if you waive indictment by the grand jury,
16 the case will proceed against you on this U.S. attorney's
17 information just as though you had been indicted.

18 Have you discussed waiving your right to
19 indictment by the grand jury with your lawyer?

20 THE DEFENDANT: Yes, I did, Your Honor.

21 THE COURT: And do you understand your legal
22 right to indictment by a grand jury?

23 THE DEFENDANT: Yes, I do, Your Honor.

24 THE COURT: Has anyone made any threats to you or
25 promises to you in order to induce you to waive

1 indictment or are you doing this voluntarily?

2 THE DEFENDANT: I do it voluntarily, Your Honor.

3 THE COURT: Do you wish to waive your right to
4 indictment by a grand jury?

5 THE DEFENDANT: Yes, I do, Your Honor.

6 THE COURT: Now, has a waiver been signed,
7 Counsel?

8 MR. ANGELI: Yes, it has, Your Honor. We handed
9 it up to Ms. Austad.

10 THE COURT: All right. Let me find it among the
11 papers that are here.

12 Here it is. I have a waiver of indictment. It
13 appears that you signed that today, January 10th. Is
14 that your signature on the waiver of indictment?

15 THE DEFENDANT: Yes, it is.

16 THE COURT: All right. I find the waiver is
17 knowingly and voluntarily made. It's accepted, and we'll
18 proceed to arraignment on the information.

19 You have waived the right to have that
20 superseding information read to you.

21 Is that correct, Counsel?

22 MR. ANGELI: Yes, it is, Your Honor.

23 THE COURT: Okay. I'll sign this.

24 Now, you heard the summary that's been made by
25 the assistant United States attorney, Mr. Atkinson, of

1 the charges against you -- excuse me, of the terms of the
2 plea agreement. Have you had an opportunity to go over
3 this plea agreement with your lawyer and discuss with him
4 how that plea agreement will affect you?

5 THE DEFENDANT: Yes, I did, Your Honor.

6 THE COURT: Are there any agreements or any
7 promises that have been made to you regarding your
8 sentence that are not contained in this plea agreement?

9 THE DEFENDANT: No, Your Honor, there isn't.

10 THE COURT: Has anyone threatened or intimidated
11 you in any way to get you to plead guilty when you really
12 didn't want to?

13 THE DEFENDANT: No, Your Honor.

14 THE COURT: All right. Now, the offense to which
15 you are pleading guilty is a felony offense. And after
16 sentencing, a judgment will be entered against you that
17 may deprive you of valuable civil rights. It may cause
18 the denial of naturalization. It may subject you to
19 deportation proceedings and removal from the United
20 States.

21 Do you understand that?

22 THE DEFENDANT: Yes, I do, Your Honor.

23 THE COURT: The maximum penalty that could be
24 imposed upon you for the crime to which you are pleading
25 guilty is five years in prison and a fine of up to

1 \$250,000. Has your attorney told you that?

2 THE DEFENDANT: Yes, Your Honor.

3 THE COURT: That's the maximum penalty.

4 Now, you will have to pay a fee assessment of
5 \$100. Do you understand that?

6 THE DEFENDANT: Yes, Your Honor.

7 THE COURT: Okay. Now, it's my obligation to
8 determine a just and reasonable sentence for your case.
9 I won't be able to make that determination until after a
10 presentence report is prepared. That's a report that's
11 prepared by the probation office. It gives me
12 information about you and your background. It gives me
13 information about the offense conduct that the Government
14 has alleged.

15 I will, based upon all that information, consider
16 any objections to the presentence report. I will make
17 rulings on those objections. I will determine an
18 advisory guideline range based upon all the facts
19 presented to me.

20 Now, in determining the appropriate sentence for
21 your case, I must consider the advisory sentencing
22 guideline range in addition to all other appropriate
23 factors.

24 Now, you and your lawyer may have discussed
25 possible sentences. But do you understand that the

1 sentence the Court imposes may be different from any
2 estimate that your attorney may have given you?

3 THE DEFENDANT: Yes, Your Honor.

4 THE COURT: Do you understand that?

5 THE DEFENDANT: Yes.

6 THE COURT: All right. Now, if you are sentenced
7 to prison, you're not entitled to parole. You'll have to
8 serve the full sentence, except for any credit for good
9 behavior that you earn, and the maximum credit for good
10 behavior is 47 years for each year of imprisonment
11 served. Do you understand that?

12 THE DEFENDANT: Yes, I do, Your Honor.

13 THE COURT: Now, if you are sentenced to prison,
14 there will be a term of supervised release to follow the
15 prison sentence, and that term will be up to three years.
16 During that time, if you were to violate any of the terms
17 of your supervised release, you could be sentenced to
18 additional prison time. Do you understand that?

19 THE DEFENDANT: I do, Your Honor.

20 THE COURT: Are there any other charges pending,
21 Counsel, other than the charges in the indictment that
22 will be dismissed?

23 MR. ANGELI: Not that we're aware of, Your Honor.

24 THE COURT: All right. Thank you.

25 Now, in the plea agreement, there is a provision

1 whereby you waive many of your rights to appeal and your
2 rights to post-conviction relief. Have you discussed
3 that with your lawyer?

4 THE DEFENDANT: Yes, I did, Your Honor.

5 THE COURT: I just want you to understand that
6 ordinarily you may appeal your conviction if you believe
7 the guilty plea was unlawful or there is some fundamental
8 defect in the proceeding that has not been waived by your
9 entering a guilty plea. You have a legal right to appeal
10 your sentence if you feel that sentence is contrary to
11 law, but you can give up these rights as part of a plea
12 agreement; and in your plea agreement, you have given up
13 a number of these rights. Do you understand that?

14 THE DEFENDANT: I do, Your Honor.

15 THE COURT: Okay. Now, there are recommendations
16 that are being made to me as part of the plea agreement,
17 and there are agreements that you have made with the
18 Government as part of that plea agreement. I carefully
19 consider any recommendations that are made to me, but I'm
20 not bound by them. And if I reject any recommendations
21 and agreements, or if your sentence turns out to be
22 different than you may have anticipated, you have no
23 right to withdraw your plea.

24 Do you understand that?

25 THE DEFENDANT: I do, Your Honor.

1 THE COURT: I want to advise you of the rights
2 you have if you decided to plead not guilty and go ahead
3 and try this case.

4 You have the right to be presumed innocent. You
5 have a right to a trial by jury, and the Government would
6 have to prove every element of each charge against you
7 beyond a reasonable doubt. You have the right to have a
8 lawyer assist you through the entire process, including
9 representation at trial. You have the right to see and
10 hear witnesses and have them cross-examined in your
11 defense, and the right to have witnesses brought to court
12 to testify in your defense.

13 You cannot be forced to testify unless you
14 voluntarily choose to do so in your defense. If you
15 decided not to testify or not to put on any other
16 evidence in your defense, these facts cannot be used
17 against you.

18 If you enter a guilty plea, there will be no
19 trial, and you will give up your trial rights I just
20 described. Do you understand that?

21 THE DEFENDANT: I do, Your Honor.

22 THE COURT: Okay. At this point I'm going to ask
23 Mr. Atkinson to outline the nature of the charge against
24 you, the essential elements of the charge, and the
25 evidence the Government could produce to support the

1 charge. Please listen carefully, as I will ask you some
2 questions following that presentation about this charge.
3 You may be seated while Mr. Atkinson does that.

4 Mr. Atkinson?

5 MR. ATKINSON: Thank you, Judge King.

6 The defendant is charged in the superseding
7 information with a single count of violation of the
8 defraud clause of the main conspiracy statute in Title
9 18. This is commonly known as a Klein conspiracy.

10 The elements for the defendant are as follows:
11 that he entered into an agreement to obstruct or impede
12 the lawful functions of a federal agency -- in this case,
13 the indictment or the information has pled that the
14 agreement was to obstruct or impede the lawful functions
15 of the Internal Revenue Service and/or the Office of
16 Foreign Assets Control; both resident agencies lie within
17 the Treasury Department -- that he did so by deceitful or
18 dishonest means, and that he performed at least one overt
19 act in furtherance of the conspiracy.

20 If the case were to go to trial, the United
21 States could prove as follows: First of all, that the
22 defendant was the founder and the chief executive officer
23 of a 501(c)(3) tax-exempt charity known as the Child
24 Foundation. By 501(c)(3), I'm referring to the Internal
25 Revenue Code. The Internal Revenue Service has oversight

1 and enforcement responsibility for 501(c)(3) charities or
2 tax-exempt charities, and it will consider revocation
3 when a charity engages in unlawful behavior or behavior
4 that is contrary to public interest.

5 The United States can prove that under
6 legislation enacted by Congress some time ago, known as
7 the International Emergency Economic Powers Act or
8 commonly referred to as IEEPA, I-E-E-P-A -- and in 1995
9 President Clinton ordered a sweeping embargo of Iran,
10 which embargo has been continued by every administration
11 following that of President Clinton. The Treasury
12 Department, through the Office of Foreign Assets Control
13 or OFAC, issued regulations to implement this embargo.
14 OFAC has enforcement responsibility, also, for any
15 violation of the embargo.

16 By way of background as well, the defendant's
17 cousin is a man by the name of Ahmad Iranshahi, who
18 resides in Iran and runs a charity in Iran known as Refah
19 Kudak, which is the alter ego, as it were, of the Child
20 Foundation here in the United States, a charity over
21 which the defendant exercised control and for which he
22 was the chief executive officer.

23 Child Foundation sent substantial funds to Iran
24 in ways that violated the embargo, in the millions of
25 dollars, including in 2006 and in 2007.

1 The Government could prove that the defendant
2 agreed with his cousin Iranshahi in Iran and others to
3 attempt to conceal that fact. He encouraged Iranshahi
4 and others not to provide information that would reveal
5 the sanctions violations or the embargo violations, and
6 he ultimately sought to prevent federal authorities,
7 including the Internal Revenue Service, which could have
8 revoked the charter, the 501(c)(3) charter of the Child
9 Foundation here, and the Office of Foreign Assets
10 Control, which has enforcement responsibility over the
11 embargo, as I mentioned earlier, from learning of the
12 violations.

13 The defendant, the Government could prove, placed
14 a specific telephone call and sent specific e-mails
15 encouraging others not to reveal or disclose these
16 violations of the embargo, alleged as overt acts,
17 sprinkled throughout the indictment in the overt acts
18 section.

19 So this is a sufficient factual basis. This is
20 all the Government would need to prove and all we need to
21 focus on this morning.

22 The information alleges additional manner and
23 means of the conspiracy, in paragraphs 12 through 17 of
24 the information. That will or perhaps may become
25 pertinent at sentencing, to the extent that the

1 Government will rely upon that evidence in order to
2 support its position at sentencing.

3 The defendant is free to contest certain aspects
4 of that, and he may well do that; and to the extent he
5 does, we'll queue those up for you to resolve at
6 sentencing, if we believe it's worth fighting over,
7 Judge. But we may prove at sentencing that the defendant
8 participated in the execution and the coverup of a scheme
9 to send over three and a half million dollars through the
10 United Arab Emirates, disguised as embargo-exempt food
11 commodity transactions, when in reality at least part of
12 those transactions involved sending cash directly to
13 Iran, in violation of embargo.

14 Defendant acceded to the creation and provision
15 in the books and records of Child Foundation of
16 inaccurate documents that perpetuated the concealment of
17 the violation of the embargo in the ways that I just
18 mentioned, in order to disguise it and in order to
19 ultimately prevent the Internal Revenue Service and OFAC
20 from finding out about these embargo violations.

21 Another manner and means of the conspiracy
22 alleged in the indictment that's not necessary to address
23 this morning but that we may address at sentencing is
24 that the defendant also assisted in the facilitation of
25 the transfer of about \$1.8 million in funds provided by a

1 significant donor, who is charged elsewhere, in a case
2 assigned to Judge Brown -- donors, I should say, plural,
3 in a case assigned to Judge Brown. That money was also
4 forwarded to Iran, some of it for investment purposes and
5 other purposes, in violation of the embargo.

6 The defendant assisted in helping these donors
7 claim charitable tax deductions; and his conduct
8 assisted, to some extent, the impairment of the functions
9 of both the Office of Foreign Assets Control and the
10 Internal Revenue Service, in the sense that the
11 exaggerated tax deductions and the embargo violations
12 were -- were hidden, were concealed by his actions.

13 THE COURT: All right. Thank you, Mr. Atkinson.

14 Mr. Yasrebi, I'm going to call your attention to
15 paragraph 24 of your petition -- excuse me. It's
16 paragraph 24, page 6 of your petition to enter a plea of
17 guilty.

18 Now, in this information, you are charged
19 generally with conspiracy to defraud the Treasury
20 Department of the United States. I have to be satisfied
21 that you have committed acts which show that you are
22 guilty of that charge.

23 Now, looking at paragraph 24, I'm going to ask
24 you these questions from your petition which you have
25 submitted to the Court.

1 Did you -- from the middle of 2006 through early
2 2007, as president of the Child Foundation, were you
3 aware that Child Foundation funds were being used to
4 facilitate cash transfers to Iran?

5 THE DEFENDANT: Yes, I was, Your Honor.

6 THE COURT: All right. And do you agree that
7 that was in violation of an embargo ordered by President
8 Clinton?

9 THE DEFENDANT: Now, Your Honor.

10 THE COURT: I'm sorry. I couldn't hear you.

11 THE DEFENDANT: I am now, Your Honor.

12 THE COURT: Were you aware at the time that what
13 you were doing was improper?

14 THE DEFENDANT: Yes, Your Honor.

15 THE COURT: All right. Now, is it true that you
16 did not disclose those transfers to the IRS, OFAC, or the
17 Child Foundation auditors? Is that true?

18 THE DEFENDANT: Yes, Your Honor.

19 THE COURT: And is it true that you encouraged
20 several individuals to refrain from volunteering the
21 information suggesting that cash transfers had ever been
22 made?

23 THE DEFENDANT: Yes, sir.

24 THE COURT: All right. And do you freely
25 indicate that you are guilty of the charges of conspiracy

1 to defraud the Treasury Department of the United States?

2 THE DEFENDANT: Yes, Your Honor.

3 THE COURT: All right. Anything further to cover
4 on that issue, Mr. Atkinson?

5 MR. ATKINSON: No, thank you, Your Honor.

6 THE COURT: What about venue? Does that have to
7 have occurred in the District of Oregon?

8 MR. ATKINSON: Yes, Your Honor. The Government
9 could prove that many of the overt acts were performed
10 here in Oregon.

11 THE COURT: Do you agree with that?

12 THE DEFENDANT: Yes, Your Honor.

13 THE COURT: All right. Thank you.

14 Do you wish to discuss anything with your client
15 before I ask him how he pleads to the charge?

16 MR. ANGELI: No, Your Honor.

17 THE COURT: Is there anything you'd like to
18 discuss with your attorney before you enter a plea to
19 this charge?

20 THE DEFENDANT: No, Your Honor.

21 THE COURT: How do you plead to the charge in
22 Count 1 of the superseding information, guilty or not
23 guilty?

24 THE DEFENDANT: Guilty, Your Honor.

25 THE COURT: I find the defendant is fully

1 competent and capable of entering an informed plea and
2 that defendant's plea of guilty is a knowing and
3 voluntary plea and is accepted.

4 Sentencing will be for Monday -- it was set for
5 Monday, April 4th, 2011, at 11:00 a.m. That's April 4th,
6 11:00 a.m. How does that time work?

7 MR. ANGELI: Your Honor, frankly, as Mr. Atkinson
8 referred to, this is going to be a little more
9 complicated than the typical sentencing proceeding, I
10 believe. The bottom line is we'd like a little bit more
11 time.

12 THE COURT: All right. How much more time?

13 MR. ANGELI: Perhaps another month, into May.

14 THE COURT: You're looking at May.

15 How does the Government feel about that?

16 MR. ATKINSON: The Government doesn't object to
17 that. But the Court may want to set aside a half day.

18 THE COURT: I didn't quite understand you. You
19 say you're not objecting?

20 MR. ATKINSON: I don't object.

21 THE COURT: And you want us to set aside a half a
22 day?

23 MR. ATKINSON: Yes, sir.

24 THE COURT: All right. We'll set it for half a
25 day.

1 What do we have in May?

2 THE CLERK: We'll set it for May 9th, at 9:00.

3 MR. ANGELI: That's fine for us, Your Honor.

4 THE COURT: All right.

5 Now, there will be a presentence report prepared
6 to assist me with sentencing, and you'll be asked to give
7 information for that report. You can discuss with your
8 lawyer whether you wish to be interviewed by probation or
9 not. You'll have a chance to read the presentence
10 report. You'll have a chance to speak at the sentencing
11 hearing.

12 Now, I understand that you are on release at this
13 time. The recommendation of pretrial services is that
14 you be continued.

15 Excuse me. He's not on release at this point, is
16 he?

17 MR. ATKINSON: No, Judge King. This is his
18 initial appearance in this case.

19 THE COURT: Yes, he wouldn't be.

20 MR. ATKINSON: I've had an opportunity to speak
21 to Ms. Kolbe. Mr. Angeli has had that opportunity.
22 We're not seeking his detention. We have no problem with
23 his release on the conditions that Ms. Kolbe mentioned.

24 THE COURT: All right. He will be released with
25 the following conditions: He's to report as directed by

1 pretrial services. He is not to change his place of
2 residence without the approval of pretrial services. His
3 travel is limited to the state of Oregon, unless prior
4 approval is obtained from U.S. pretrial services. He's
5 to surrender any passport to the clerk of the court or
6 submit a statement to pretrial services that he no longer
7 possesses a passport. He's not to obtain a new passport.

8 I believe I signed an order for release earlier.

9 Ms. Kolbe, do you have that?

10 PRETRIAL SERVICES OFFICER: I do, Your Honor.

11 THE COURT: All right.

12 MR. ANGELI: Your Honor, if I may, we don't
13 object to any of those conditions, with one exception,
14 which I discussed with Mr. Atkinson -- and I don't
15 believe he has any objection -- and that is that the
16 restriction on out-of-state travel be expanded to
17 Washington as well.

18 THE COURT: The state of Washington, any problem
19 with that?

20 MR. ATKINSON: No, sir.

21 THE COURT: All right. Then that condition will
22 be placed in the conditions.

23 All right. I believe that takes care of
24 everything for Mr. Yasrebi. Is that correct? Anything
25 else, Counsel?

1 MR. ATKINSON: No, sir. Thank you.

2 THE COURT: All right. Then let's proceed with
3 the corporation's.

4 Mr. Sim, you have submitted a waiver of
5 indictment.

6 MR. SIM: Yes, I have, Your Honor.

7 THE COURT: You have also submitted a petition to
8 enter a plea of guilty on behalf of the corporation.

9 MR. SIM: That's correct.

10 THE COURT: Let me just sign a couple of things.

11 (Pause) All right. Mr. Sim, you've been sworn?

12 MR. SIM: Yes, I have, Your Honor.

13 THE COURT: Mr. Sim, do you represent Child
14 Foundation?

15 MR. SIM: I do.

16 THE COURT: Are you an attorney?

17 MR. SIM: Yes, I am.

18 THE COURT: Mr. Sim, have you read the
19 superseding information that's been filed naming the
20 Child Foundation as a defendant in this case?

21 MR. SIM: Yes, Your Honor, I have read it. I
22 have also shared it with the board of directors of the
23 Child Foundation.

24 THE COURT: Would you state just briefly your
25 understanding of the charge against Child Foundation.

1 MR. SIM: Your Honor, it's the same information
2 that was summarized by the Government with regard to
3 Dr. Yasrebi, charging a Klein conspiracy, conspiracy to
4 defraud the Treasury Department of the United States.

5 THE COURT: All right. Now, you represent Child
6 generally; is that correct?

7 MR. SIM: Child Foundation, I've represented them
8 for two and a half years.

9 THE COURT: And you can represent to me that
10 there is a corporate resolution which authorizes the
11 entry of a guilty plea?

12 MR. SIM: Yes, Your Honor.

13 THE COURT: And your counsel in this case is
14 Mr. -- let me find your name here -- Mr. Sacks?

15 MR. SIM: Well, we're partners in the same law
16 firm. We're both from Stoel Rives.

17 THE COURT: In any event, you have counsel if you
18 need it.

19 MR. SIM: Yes.

20 THE COURT: All right. You understand your
21 rights, that you need not make a statement?

22 MR. SIM: Yes, Your Honor.

23 THE COURT: Any need for me to explain that to
24 you?

25 MR. SIM: No.

1 THE COURT: All right. Now, with regard to the
2 indictment, do you understand that you do have -- the
3 corporation has a constitutional right to be charged by
4 an indictment of a grand jury?

5 MR. SIM: Yes, Your Honor. That's actually a
6 disputed issue under the law, but --

7 THE COURT: Well, let's assume that --

8 MR. SIM: Assuming it does, we've waived it.

9 THE COURT: Assuming they do, you heard my
10 statements made to Mr. Yasrebi. Did you understand all
11 of those statements?

12 MR. SIM: We did, and our client has as well.

13 THE COURT: All right. Now, you're authorized,
14 then, to act for the corporation in this matter?

15 MR. SIM: Yes, Your Honor, I am.

16 THE COURT: All right. Have you fully discussed
17 the charges with your client?

18 MR. SIM: Yes, I have.

19 THE COURT: And is it your feeling that your
20 client does understand the charges being made against the
21 corporation?

22 MR. SIM: I am 100 percent confident of that,
23 Your Honor.

24 THE COURT: Has anyone made any promises to the
25 corporation? Are there any agreements with the

1 corporation regarding the sentence in this case, other
2 than what's set forth in the plea agreement and the -- in
3 the plea agreement?

4 MR. SIM: Nothing other than what's in the plea
5 agreement, Your Honor.

6 THE COURT: Okay. Counsel, what is the penalty
7 that can be imposed on the corporation?

8 MR. ATKINSON: The maximum penalty is set forth
9 in paragraph 3 of the plea agreement, Judge King, a
10 criminal fine of \$500,000 and a term of probation of up
11 to five years. An assessment of \$400 is mandatory.

12 THE COURT: All right. Have you discussed those
13 penalties with your client? Do they understand them?

14 MR. SIM: Yes, they do, Your Honor.

15 THE COURT: And they understand that this is a
16 felony offense?

17 MR. SIM: They do.

18 THE COURT: Okay. There's a fee assessment of
19 \$100. I assume the corporation will have to pay that as
20 well.

21 MR. SIM: I'm afraid it's a \$400 assessment for a
22 corporation, Your Honor.

23 THE COURT: Is it 400?

24 MR. SIM: And I've got the check right here.

25 THE COURT: All right. Good. Well, that's

1 interesting.

2 All right. And as you heard me explain to
3 Mr. Yasrebi, it's my obligation to determine a just and
4 reasonable sentence for the case. I won't be able to do
5 that until after a presentence report is prepared. And I
6 will take into consideration the advisory sentencing
7 guideline range, if they apply.

8 Do they apply to corporations as well?

9 MR. ATKINSON: Yes, sir, they do.

10 THE COURT: All right. If they apply in this
11 case, I'll take that into consideration. I'll take all
12 of the other sentencing factors into consideration at the
13 time.

14 Any other pending charges against the corporation
15 in connection with this matter?

16 MR. SIM: None that we're aware of, Your Honor.

17 THE COURT: And let's see if your plea agreement
18 includes a waiver of appeal.

19 MR. SIM: It does.

20 THE COURT: Is it the same waiver?

21 MR. SIM: Yes, it is, Your Honor.

22 THE COURT: And have you discussed the fact that
23 the corporation has waived most of its rights to appeal
24 or claims for post-conviction relief?

25 MR. SIM: I have done that. And, Your Honor, the

1 entire board of directors has reviewed the plea petition
2 and understands what's in it.

3 THE COURT: Okay. You heard me explain the
4 rights that an accused has in court with regard to a
5 trial and all those other factors.

6 MR. SIM: Yes.

7 THE COURT: You heard me explain that to
8 Mr. Yasrebi. Are you familiar with that?

9 MR. SIM: Yes, I am.

10 THE COURT: And is your client aware of these?

11 MR. SIM: Yes. My client is fully advised on
12 that.

13 THE COURT: Now, with regard to the corporation's
14 knowledge --

15 MR. SIM: Paragraph 17 of our plea petition would
16 be --

17 THE COURT: Okay. That's what I'm looking for,
18 paragraph 17.

19 I'm going to ask Mr. Atkinson to summarize the
20 basis for the charges against the foundation.

21 You summarized the facts surrounding the
22 activities. Would you summarize for us the facts that
23 make the corporation liable for these charges as well.

24 MR. ATKINSON: Yes, Your Honor. Thank you.

25 The corporation is charged in the same

1 information, a single-count conspiracy under 18 United
2 States Code Section 371, brought not under the offense
3 clause, but under the defraud clause, as it's commonly
4 known, a Klein conspiracy.

5 The elements for a corporation are the same as
6 those that would apply to Dr. Yasrebi individually. As I
7 indicated, however, Dr. Yasrebi was the chief executive
8 officer. He's since resigned, but he was the chief
9 executive officer of the Child Foundation at all times
10 that was material under the information. Thus, his
11 actions are imputable to the corporation.

12 The Government would need to have proven that the
13 corporation engaged in the offense through the acts of
14 its agent or employee; and Dr. Yasrebi certainly fits
15 within that category, for the reasons that I've already
16 mentioned.

17 The factual basis is identical to that that I've
18 already recited; and for the benefit of the record,
19 rather than going through that again, I'd simply ask that
20 we incorporate the factual basis that I summarized
21 earlier and the sentencing factors upon which the United
22 States may rely at sentencing here, rather than repeat
23 them.

24 THE COURT: All right. Thank you, Mr. Atkinson.
25 You were here, Mr. Sim, while Mr. Atkinson set

1 forth the elements that would have to be proved and the
2 evidence the Government could produce to support the
3 charges against Mr. Yasrebi. I'm going to call your
4 attention to paragraph 17 of your petition to enter a
5 plea of guilty on behalf of the corporate defendant, and
6 I'll ask you if, based upon your knowledge, the corporate
7 defendant is guilty of the following factors.

8 Is Child Foundation a corporation organized under
9 the laws of Oregon?

10 MR. SIM: Yes, Your Honor.

11 THE COURT: And was Mr. Yasrebi president of the
12 Child Foundation in 2006 and 2007?

13 MR. SIM: Yes, he was, Your Honor.

14 THE COURT: And do you agree on behalf of the
15 corporation that the criminal acts to which Mr. Yasrebi
16 has admitted in his plea petition and here in court were
17 done on behalf of Child Foundation, with the intent to
18 benefit the Child Foundation, and for which Child
19 Foundation is vicariously liable?

20 MR. SIM: Yes, Your Honor, Child Foundation
21 admits that.

22 THE COURT: All right. These facts include,
23 number one, from the middle of 2006 through early 2007,
24 Child Foundation funds were being used to facilitate cash
25 transfers to Iran, in violation of the embargo.

1 Mr. Yasrebi had the power to stop these transfers and he
2 failed to do so.

3 Is that an act which you -- are you aware of that
4 act?

5 MR. SIM: Yes, and Child Foundation admits that.

6 THE COURT: Number two, Dr. Yasrebi did not
7 disclose those transfers to the IRS, OFAC, or Child
8 Foundation's auditors, and he encouraged others to
9 refrain from volunteering information suggesting that
10 cash transfers had ever been made. Are you admitting
11 those facts?

12 MR. SIM: Yes. Child Foundation admits those
13 facts, Your Honor.

14 THE COURT: Do you wish to consider anything or
15 talk to your associate before I ask you how the
16 corporation pleads to the charge?

17 MR. SIM: No, Your Honor. We're prepared.

18 THE COURT: How does the corporation plead to the
19 charge, guilty or not guilty?

20 MR. SIM: Child Foundation enters a guilty plea.

21 THE COURT: I find that Child Foundation is fully
22 competent and capable of entering an informed plea
23 through its representative, an attorney, and that
24 defendant's plea of guilty is a knowing and voluntary
25 plea and is accepted.

1 Sentencing will occur on the same date and time
2 as that set for Mr. Yasrebi.

3 Is there any other issue we need to discuss at
4 this time? Mr. Atkinson?

5 MR. ATKINSON: Not for the United States, Judge
6 King. Thank you.

7 THE COURT: Mr. Sim?

8 MR. SIM: I think we're ready.

9 THE COURT: All right. Thank you.

10 As I say, I find they're competent and capable of
11 entering an informed plea. It's a knowing and voluntary
12 plea, and it is accepted.

13 I think that's it. Anything else?

14 MR. SIM: Thank you, Your Honor.

15 THE COURT: Thank you.

16 MR. ANGELI: Thank you, Judge.

17 THE CLERK: Court is in recess.

18

19

20 (Proceedings concluded.)

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I certify, by signing below, that the
foregoing is a correct transcript of the record
of proceedings in the above-titled cause. A
transcript without an original signature,
conformed signature or digitally signed signature
is not certified.

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/s/ Nancy M. Walker

1-18-12

NANCY M. WALKER, CSR, RMR, CRR
Official Court Reporter
Oregon CSR No. 90-0091

DATE